

H-3103-1 - FEES, RENTALS, AND ROYALTY

KeywordsV. Reversion of Lease Account from Minimum Royalty to Rental StatusA. General

The following guidance is provided to determine whether a lease account reverts to a rental status collectible by the MMS when producing leases are segregated by partial assignment or unitization; when a CA terminates; when a unit agreement terminates or contracts; and when production ceases. (See also Section III.C, above.)

REVERSION OF
LEASE ACCOUNT
FROM MINIMUM
ROYALTY TO
RENTAL STATUS

Guidance for unit or CA termination, unit contraction, unit segregation, segregation due to partial assignment, and cessation of production, are contained in Handbooks 3105-1, 3106-1, and 3107-1, respectively. (See Handbook 3107-1 for guidance on transferring lease accounts from rental status to royalty/minimum royalty status. See also Handbook 3105-1, Appendix 4, for additional guidance concerning procedures for leases reverting from minimum royalty status to rental status.)

When the lease account reverts to a rental (terminable) status, the lessee must be notified by the SO Lease Adjudication of the obligation to pay the rental and be given 30 days to make the payment even though the rental due date may have already passed or be a date other than the lease anniversary date (see Husky Oil Company of Delaware, Depco, Inc., 5 IBLA 7 (1972), and American Resources Management Corp., 36 IBLA 157 (1978)).

NOTIFY LESSEE
OF LEASE
ACCOUNT
REVERSION

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B. Nonunitized Leases

When a nonunitized or noncommunitized lease converts to a minimum royalty paying status, it will not revert to a rental status even though production ceases and there is no longer a well capable of paying production on the lease lands. Thus, even though the term of the lease may have reverted to a fixed number of years, it is still subject to minimum royalty (see Elliott, Inc., 71 I.D. 361 (1964)).

However, there are several exceptions or instances where minimum royalty lands revert to rental, as follows:

1. When nonproductive lands are segregated from a producing lease into a separate lease by reason of a partial assignment, the lease without the productive well reverts to a rental status on the lease anniversary date that occurs on or after the effective date of the assignment, and the lease account will be transferred from a producing (nonterminable) status to a nonproducing (terminable) status in the MMS automated system. That portion of the parent lease containing the well remains on minimum royalty.

2. If a renewal lease is in a minimum royalty status and is not held by the terms of a unit agreement, and actual production ceases prior to the end of its term, the lease reverts to a rental status in the MMS automated system when it is renewed for its final 20-year term in accordance with the Act of November 15, 1990.

3. If a lease subject to minimum royalty is in its original or fixed term and production ceases, and if the depleted well is on the leasehold, the lease remains in a minimum royalty status in the MMS automated system through the remainder of such term. However, if the depleted well is off the leasehold, the lease will revert to a rental status on the next lease anniversary date and the account will be transferred from a producing (nonterminable) status to a nonproducing (terminable) status in the MMS automated system.

For example, all leases in their original or fixed term committed to a CA receive a 2-year extension when the CA terminates upon cessation of production. The lease with the well would continue under minimum royalty during this 2-year period, while the lease without the well that merely participated in communitized production reverts to a rental (terminable) status on the next lease anniversary date following termination of the CA.

Keywords

NONUNITIZED
LEASE REMAINS
IN MINIMUM
ROYALTY STATUS
AFTER PRODUCTION
CEASES

PARTIAL
ASSIGNMENT OF
NONPRODUCTIVE
LANDS REVERTS TO
RENTAL STATUS

RENEWAL LEASE
IN MINIMUM
ROYALTY STATUS
AT END OF TERM
REVERTS TO
RENTAL STATUS

CESSATION OF
PRODUCTION
ON LEASEHOLD

CESSATION OF
PRODUCTION
OFF LEASEHOLD

COMMUNITIZATION
AGREEMENT
TERMINATION -
LEASE WITHOUT
WELL REVERTS
TO RENTAL STATUS

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Keywords

4. When a lease in minimum royalty status is in its extended term by production, and production ceases but the lease is extended by any other provisions of the law and regulations, the lease reverts to a rental status on the next lease anniversary date.

LEASE IN EXTENDED
TERM IN MINIMUM
ROYALTY STATUS
AND PRODUCTION
CEASES REVERTS TO
RENTAL STATUS

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C. Unitized LeasesKeywords

When a producing lease is segregated into two leases upon partial commitment to a unit, the lease containing a productive well remains on minimum royalty. The lease without the productive well reverts to a rental status and the lease account is transferred from a nonterminable to a terminable status in the MMS automated system (see T. Jack Foster, 75 I.D. 81 (1968)).

UNIT
SEGREGATION -
LEASE WITHOUT
WELL REVERTS
TO RENTAL STATUS

When nonproductive acreage in a lease is automatically eliminated from a unit, no lease segregation occurs but the lease acreage inside and outside the unit area changes. When a unitized lease that has never had a producing well is removed from a participating area, the lease is no longer subject to the minimum royalty obligation and reverts to a rental status on the next anniversary date on or after its elimination from the participating area.

LEASE ELIMINATED
FROM UNIT REVERTS
TO RENTAL STATUS
IF NO PRODUCIBLE
WELL ON LEASE
ACREAGE

A contraction or revision/expansion of the unit area decreases or increases the participating area acreage that is subject to the minimum royalty obligation and, therefore, also changes the nonparticipating acreage that is subject to rental obligations. When a lease is eliminated from the participating acreage due to a unit contraction, the lease reverts to a rental status on the next anniversary date on or after the effective date of the unit contraction if the lease does not and never did contain a well capable of producing in paying quantities.

UNIT CONTRACTION
OR EXPANSION
REVISES ACREAGE
IN LEASES SUBJECT
TO MINIMUM
ROYALTY/RENTAL
STATUS

When a unit agreement terminates and a unit lease was partly inside and partly outside the participating area and contains a producing well (or a well that was once capable of production in paying quantities), the entire lease remains on minimum royalty. If the lease does not and never did contain a producing well, the entire lease reverts to a rental status and the account is transferred from a nonterminable status to a terminable status in the MMS automated system (see Murphy Corporation, 71 I.D. 233 (1964)).

UNIT
TERMINATION -
LEASE WITHOUT
WELL REVERTS
TO RENTAL STATUS

For leases entirely eliminated from a unit by contraction, the leases that contain a producing well (or a well that was once capable of production in paying quantities) remain in a minimum royalty status. However, the leases that do not and never did contain a producing well revert to a rental status and the accounts are transferred from a nonterminable status to a terminable status in the MMS automated system.

UNIT
CONTRACTION -
LEASE WITHOUT
WELL REVERTS
TO RENTAL
STATUS

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Keywords

During the time a lease account is maintained by the MMS, when there is an arrearage or deficiency in minimum royalty/rental payments, and the lease account reverts to a rental status, the deficiency or arrearage will be annotated in the lease account in the MMS automated system. The individual BLM State Offices can identify such leases with deficiencies or arrearages in the MMS BIS automated system.

ROYALTY/RENTAL
DEFICIENCIES
IN MMS -
BLM NOTIFIED

For leases reverting to a rental status from a royalty or minimum royalty status, the SO Lease Adjudication is to indicate the exact rental due date in the decision issued, particularly for those leases where the lessee is allowed 30 days to pay the rental (see Husky Oil Company of Delaware, Depco, Inc., 5 IBLA 7 (1972)). If the rental is not paid within the time allowed, the lease is then subject to the automatic termination provisions of the MLA. Transmit a copy of the decision to the MMS-DMD. (See Handbook 3105-1 for additional guidance.) Even though the lease may be subject to a Secretarial rental rate reduction (see Section II.A, above), the decision shall show the proper, higher rental rate that is contained in the lease terms or as provided under 43 CFR 3103.2-2(b), with further explanation of the reduced rate that is caused by the Secretarial rental reduction and the specific time frame during which the rental rate reduction is applicable.

ACCOUNTING
ADVICE - SHOW
EXACT RENTAL
DUE DATE AND
FULL ANNUAL
RENTAL RATE

Rentals due on leases reverting to rental status following elimination from units or CA's fall into two categories:

1. Rental that was due to the MMS while the lease was unitized (and thus not subject to automatic termination). The amount due is a debt owed to the United States for which interest and penalties accrue. Initiation of cancellation proceedings by the BLM is required to cancel the lease if the amount due, which includes any interest and penalties charges, is not paid to the MMS.

RENTAL DUE TO
MMS WHILE
LEASE UNITIZED

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Keywords

When a lease was in unit with the account in a producing (nonterminable) status in the MMS automated system and the rental due was not paid, it is a violation of the lease terms that could result in lease cancellation under 43 CFR 3108.3 (not under 43 CFR 3108.2). Since the lease does not contain a well capable of production in paying quantities and is eliminated from a unit containing a well so capable, the lease may be canceled administratively by the BLM (lease does not terminate automatically). The lessee must be notified of the amount due and allowed 30 days from receipt of the BLM notice to tender the payment (43 CFR 3108.3(a)). This action will be taken by the BLM only after the MMS has exhausted all means in collecting the arrearage/deficiency. In accordance with the Bureau of Indian Affairs/BLM/MMS Memorandum of Understanding (MOU), Section IX.E., the MMS is to provide the BLM with all the pertinent supporting material in order to commence the cancellation proceedings.

2. Rental that is due to the MMS on the first anniversary date after unit contraction that, if not paid after receipt of the BLM notice of the lease status change, will result in automatic termination of the lease under 30 U.S.C. 188(b). No interests or penalties accrue; the consequence of nonpayment is the automatic termination of the lease.

RENTAL DUE
AFTER UNIT
CONTRACTION

In the second category, if rental is not paid timely, the lease does not automatically terminate if the lessee was not notified by the BLM of the change in status of the lease account (including any increased rental rate) prior to the rental due date. The IBLA held in Husky Oil Company of Delaware, Depco, Inc., 5 IBLA 7 (1972), that Congress intended that the automatic termination provision of 30 U.S.C. 188 apply to the regular, annual rental payment, the necessity for which a lessee had continuous notice, and that this automatic termination provision was not intended to apply to a case where a lessee had no way of knowing that the obligation had accrued. Thus, if the lessee is not notified of the elimination of the lease from the unit/CA prior to the first anniversary date after the effective date of elimination, the lease does not terminate.

NOTIFICATION
OF CHANGE IN
LEASE STATUS
REQUIRED TO
BE GIVEN LESSEE

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KeywordsD. Automated Notation

The MMS-DMD does not generate an expiration list for nonproducing leases that remain in the minimum royalty status for the remainder of their term. It is, therefore, imperative that the ALMRS Entry be made for such leases as follows: ALMRS DE 1775/2910 Action Code 763-EXPIRES, using the date of expiration.

AUTOMATED
NOTATION -
LEASES
REMAINING ON
MINIMUM ROYALTY

When a lease account is transferred in the MMS from a producing (nonterminable) status to a nonproducing (terminable) status, make the following ALMRS Entry: DE 1775/2910 Action Code 058-NOTICE SENT-NONPROD STAT, using the date that a notice is sent that the lease account is changed from a nonterminable to a terminable status.

AUTOMATED
NOTATION -
LEASES
REVERTING TO
RENTAL STATUS

See Appendix 3 for a listing of the ALMRS action codes applicable to this the actions addressed in this Handbook 3103-1.

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